

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Paddie

H.B. No. 1504

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Medical  
3 Board; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 151.004, Occupations Code, is amended to  
6 read as follows:

7 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical  
8 Board is subject to Chapter 325, Government Code (Texas Sunset  
9 Act). Unless continued in existence as provided by that chapter,  
10 the board is abolished and this subtitle and Chapters 204, 205, 206,  
11 601, 602, 603, and 604 expire September 1, 2031 [~~2019~~].

12 SECTION 2. Section 152.010, Occupations Code, is amended by  
13 amending Subsection (b) and adding Subsection (d) to read as  
14 follows:

15 (b) The training program must provide the person with  
16 information regarding:

17 (1) the law governing board operations [~~this~~  
18 ~~subtitle~~];

19 (2) the programs, functions, rules, and budget of  
20 ~~[operated by]~~ the board;

21 (3) the scope of and limitations on the rulemaking  
22 authority [~~role and functions~~] of the board;

23 (4) [~~the rules of the board, with an emphasis on the~~  
24 ~~rules that relate to disciplinary and investigatory authority,~~

1           ~~[(5) the current budget for the board,~~  
2           ~~[(6)]~~ the results of the most recent formal audit of  
3 the board;

4           (5) ~~[(7)]~~ the requirements of:

5                   (A) laws relating to open meetings, public  
6 information, administrative procedure, and disclosing conflicts of  
7 interest; and

8                   (B) other laws applicable to members of the board  
9 in performing their duties; and

10           (6) ~~[(8)]~~ any applicable ethics policies adopted by  
11 the board or the Texas Ethics Commission.

12           (d) The executive director of the board shall create a  
13 training manual that includes the information required by  
14 Subsection (b). The executive director shall distribute a copy of  
15 the training manual annually to each board member. Each board  
16 member shall sign and submit to the executive director a statement  
17 acknowledging that the member received the training manual.

18           SECTION 3. Section 153.058(a), Occupations Code, is amended  
19 to read as follows:

20           (a) The board shall develop and implement a policy to  
21 encourage the use of:

22                   (1) negotiated rulemaking procedures under Chapter  
23 2008, Government Code, for the adoption of any rules by the board  
24 ~~[rules]~~; and

25                   (2) appropriate alternative dispute resolution  
26 procedures under Chapter 2009, Government Code, to assist in the  
27 resolution of internal and external disputes under the board's

1 jurisdiction.

2 SECTION 4. Section 154.006, Occupations Code, is amended by  
3 amending Subsections (b), (g), (i), (j), and (k) and adding  
4 Subsections (b-1), (i-1), and (l) to read as follows:

5 (b) Except as otherwise provided by this section, a [A]  
6 profile must contain the following information on each physician:

7 (1) the name of each medical school attended and the  
8 dates of:

9 (A) graduation; or

10 (B) Fifth Pathway designation and completion of  
11 the Fifth Pathway Program;

12 (2) a description of all graduate medical education in  
13 the United States or Canada;

14 (3) any specialty certification held by the physician  
15 and issued by a medical licensing board that is a member of the  
16 American Board of Medical Specialties or the Bureau of Osteopathic  
17 Specialists;

18 (4) the number of years the physician has actively  
19 practiced medicine in:

20 (A) the United States or Canada; and

21 (B) this state;

22 (5) the name of each hospital in this state in which  
23 the physician has privileges;

24 (6) the physician's primary practice location;

25 (7) the type of language translating services,  
26 including translating services for a person with impairment of  
27 hearing, that the physician provides at the physician's primary

1 practice location;

2 (8) whether the physician participates in the Medicaid  
3 program;

4 (9) a description of any conviction for a felony, a  
5 Class A or Class B misdemeanor, or a Class C misdemeanor involving  
6 moral turpitude;

7 (10) a description of any charges reported to the  
8 board to which the physician has pleaded no contest, for which the  
9 physician is the subject of deferred adjudication or pretrial  
10 diversion, or in which sufficient facts of guilt were found and the  
11 matter was continued by a court;

12 (11) a description of any disciplinary action against  
13 the physician by the board;

14 (12) a description of any disciplinary action against  
15 the physician by a medical licensing board of another state;

16 (13) a description of the final resolution taken by  
17 the board on medical malpractice claims or complaints required to  
18 be opened by the board under Section 164.201;

19 (14) whether the physician's patient service areas are  
20 accessible to disabled persons, as defined by federal law;

21 (15) a description of any formal complaint against the  
22 physician initiated and filed under Section 164.005 and the status  
23 of the complaint; and

24 (16) a description of any medical malpractice claim  
25 against the physician, not including a description of any offers by  
26 the physician to settle the claim, for which the physician was found  
27 liable, a jury awarded monetary damages to the claimant, and the

1 award has been determined to be final and not subject to further  
2 appeal.

3 (b-1) On or after the fifth anniversary of the date a  
4 remedial plan is issued under Section 164.0015, the board may  
5 remove from the profile of the physician subject to the plan any  
6 information regarding the plan and the complaint resolved by the  
7 plan unless:

8 (1) the complaint was related to the delivery of  
9 health care; or

10 (2) more than one remedial plan has been issued to  
11 resolve complaints alleging the same violation by the physician,  
12 including a complaint not related to the delivery of health care.

13 (g) Except as otherwise provided by this section, the [The]  
14 board shall update the information contained in a physician's  
15 profile annually~~[, except that information provided under~~  
16 ~~Subsection (i) shall be updated not later than the 10th working day~~  
17 ~~after the date the formal complaint is filed or the board's order is~~  
18 ~~issued].~~ The board shall adopt a form that allows a physician to  
19 update information contained in a physician's profile. The form  
20 shall be made available on the Internet and in other formats as  
21 prescribed by board rule. The board may adopt rules concerning the  
22 type and content of additional information that may be included in a  
23 physician's profile.

24 (i) In addition to the information required by Subsection  
25 (b) and except as otherwise provided by this section, a profile must  
26 be updated to contain the text of a formal complaint filed under  
27 Section 164.005 against the physician or of a board order related to

1 the formal complaint not later than the 10th working day after the  
2 date the complaint is filed.

3 (i-1) Not later than the 10th working day after the date the  
4 board issues a final order related to a formal complaint filed under  
5 Section 164.005 against a physician, the board shall:

6 (1) remove from the physician's profile any record of  
7 the formal complaint or any prior disciplinary action related to  
8 the formal complaint; and

9 (2) update the physician's profile to contain the  
10 board's final order.

11 (j) Information included in a physician's profile under  
12 Subsections (b), ~~and~~ (i), and (i-1) may not include any patient  
13 identifying information.

14 (k) Not later than the 10th working day after the date the  
15 board dismisses [~~In the annual update of a physician's profile~~  
16 ~~under Subsection (g), the board shall remove any record of]~~ a formal  
17 complaint against a physician required to be included in the  
18 physician's profile under Subsection (b)(15) or (i) [~~if the~~  
19 ~~complaint was dismissed more than five years before the date of the~~  
20 ~~update and the complaint was dismissed]~~ as baseless, unfounded, or  
21 not supported by sufficient evidence that a violation occurred, or  
22 resolves the complaint and takes no action [~~was taken~~] against the  
23 physician's license as a result of the complaint, the board shall:

24 (1) remove from the physician's profile any record of  
25 the formal complaint or any prior disciplinary action related to  
26 the formal complaint; and

27 (2) update the physician's profile to contain the

1 board's final order dismissing or resolving the complaint.

2 (1) If no action is taken against a physician's license as a  
3 result of an [~~The board shall also remove any record of the~~]  
4 investigation of medical malpractice claims or complaints required  
5 to be investigated by the board under Section 164.201, the board  
6 shall, not later than the 10th working day after the date the board  
7 resolves the investigation, remove any record of the investigation  
8 from the physician's profile [~~if the investigation was resolved~~  
9 ~~more than five years before the date of the update and no action was~~  
10 ~~taken against the physician's license as a result of the~~  
11 ~~investigation~~].

12 SECTION 5. Section 154.057, Occupations Code, is amended by  
13 amending Subsection (b) and adding Subsection (b-1) to read as  
14 follows:

15 (b) Except as provided by Subsection (b-1), the [~~The~~] board  
16 shall complete a preliminary investigation of the complaint not  
17 later than the 45th day after the date of receiving the complaint.  
18 The board shall first determine whether the physician constitutes a  
19 continuing threat to the public welfare. On completion of the  
20 preliminary investigation, the board shall determine whether to  
21 officially proceed on the complaint. If the board fails to complete  
22 the preliminary investigation in the time required by this  
23 subsection, the board's official investigation of the complaint is  
24 considered to commence on that date.

25 (b-1) The board, for good cause, may extend a preliminary  
26 investigation under Subsection (b) for not more than 15 days after  
27 the date required for completion under that subsection.

1 SECTION 6. Subchapter A, Chapter 155, Occupations Code, is  
2 amended by adding Section 155.011 to read as follows:

3 Sec. 155.011. EXPEDITED LICENSING PROCESS FOR CERTAIN  
4 OUT-OF-STATE APPLICANTS. The board by rule shall develop and  
5 implement an expedited licensing process for an applicant who is  
6 considered to have satisfied the examination requirements of this  
7 chapter under Section 155.0561(d).

8 SECTION 7. Section 155.056(a), Occupations Code, is amended  
9 to read as follows:

10 (a) Except as otherwise provided by Subsection (a-1) and  
11 Section 155.0561, an applicant must pass each part of an  
12 examination within three attempts.

13 SECTION 8. Subchapter B, Chapter 155, Occupations Code, is  
14 amended by adding Section 155.0561 to read as follows:

15 Sec. 155.0561. EXCEPTIONS TO EXAMINATION ATTEMPT LIMITS FOR  
16 CERTAIN OUT-OF-STATE APPLICANTS. (a) In this section:

17 (1) "Active practice" means the practice of medicine  
18 by a person after successful completion of a residency, fellowship,  
19 or other supervised training program.

20 (2) "Full license" means a license to practice  
21 medicine that is not a training license, a permit, or any other form  
22 of authority to practice medicine issued to a person while the  
23 person is completing or enrolled in a residency, fellowship, or  
24 other supervised training program.

25 (b) This section applies only to an applicant who:

26 (1) has successfully completed a graduate medical  
27 education program approved by the board;

1           (2) holds a full license and is in good standing as a  
2 physician in another state or Canada;

3           (3) does not hold and has never held a medical license  
4 subject to any restriction, disciplinary order, or probation;

5           (4) is not and has never been the subject of a peer  
6 review that has resulted or may result in limitation, restriction,  
7 suspension, or other adverse impact on the applicant's hospital or  
8 other medical facility privileges; and

9           (5) is not under investigation by any licensing or law  
10 enforcement agency.

11           (c) An applicant described by Subsection (b) who has held a  
12 full license and been in active practice for at least one year but  
13 less than five years and has passed within three attempts all but  
14 one part of the examination approved by the board is considered to  
15 have satisfied the examination requirements of this chapter if the  
16 applicant passed the remaining part of the examination within:

17                   (1) one additional attempt; or

18                   (2) three additional attempts, if the applicant is  
19 specialty board certified by a specialty board that is:

20                           (A) a member of the American Board of Medical  
21 Specialties; or

22                           (B) approved by the American Osteopathic  
23 Association.

24           (d) An applicant described by Subsection (b) who has held a  
25 full license and been in active practice for at least five years is  
26 considered to have satisfied the examination requirements of this  
27 chapter regardless of the type of examination the applicant passed

1 or the number of attempts within which the applicant passed the  
2 examination or any part of the examination.

3 SECTION 9. Section 162.106, Occupations Code, is amended to  
4 read as follows:

5 Sec. 162.106. INSPECTIONS. (a) The board may conduct  
6 inspections [~~to enforce this subchapter, including inspections of~~  
7 ~~an office site and of documents~~] of a physician's equipment and  
8 office procedures [~~practice~~] that relate to the provision of  
9 anesthesia in an outpatient setting as necessary to enforce this  
10 subchapter.

11 (b) The board may establish a risk-based inspection process  
12 in which the board conducts inspections based on the length of time  
13 since:

14 (1) the equipment and outpatient setting were last  
15 inspected; and

16 (2) the physician submitted to inspection.

17 (c) The board may contract with another state agency or  
18 qualified person to conduct the inspections.

19 (d) [~~(b)~~] Unless it would jeopardize an ongoing  
20 investigation, the board shall provide at least five business days'  
21 notice before conducting an on-site inspection under this section.

22 (e) The board shall maintain a record of the outpatient  
23 settings in which physicians provide anesthesia.

24 (f) A physician who provides anesthesia in an outpatient  
25 setting shall inform the board of any other physician with whom the  
26 physician shares equipment used to administer anesthesia.

27 (g) [~~(e)~~] This section does not require the board to make an

1 on-site inspection of a physician's office.

2 SECTION 10. Section 164.0015(d), Occupations Code, is  
3 amended to read as follows:

4 (d) The board may not issue a remedial plan to resolve a  
5 complaint against a license holder if the license holder has  
6 [~~previously~~] entered into a remedial plan with the board in the  
7 preceding five years [~~for the resolution of a different complaint~~  
8 ~~relating to this subtitle~~].

9 SECTION 11. Section 164.003, Occupations Code, is amended  
10 by amending Subsections (b) and (f) and adding Subsection (f-1) to  
11 read as follows:

12 (b) Rules adopted under this section must require that:

13 (1) an informal meeting in compliance with Section  
14 2001.054, Government Code, be scheduled not later than the 180th  
15 day after the date the board's official investigation of the  
16 complaint is commenced as provided by Section 154.057(b), unless  
17 good cause is shown by the board for scheduling the informal meeting  
18 after that date;

19 (2) the board give notice to the license holder of the  
20 time and place of the meeting not later than the 45th day before the  
21 date the meeting is held;

22 (3) the complainant and the license holder be provided  
23 an opportunity to be heard;

24 (4) at least one of the board members or district  
25 review committee members participating in the informal meeting as a  
26 panelist be a member who represents the public;

27 (5) the board's legal counsel or a representative of

1 the attorney general be present to advise the board or the board's  
2 staff; ~~and~~

3 (6) a member of the board's staff be at the meeting to  
4 present to the board's representative the facts the staff  
5 reasonably believes it could prove by competent evidence or  
6 qualified witnesses at a hearing; and

7 (7) if the complaint includes an allegation that the  
8 license holder has violated the standard of care, the panel  
9 conducting the informal proceeding consider whether the physician  
10 was practicing complementary and alternative medicine.

11 (f) The notice required by Subsection (b)(2) must be  
12 accompanied by a written statement of the nature of the allegations  
13 and the information the board intends to use at the meeting. If the  
14 board does not provide the statement or information at that time,  
15 the license holder may use that failure as grounds for rescheduling  
16 the informal meeting. If the complaint includes an allegation that  
17 the license holder has violated the standard of care, the notice  
18 must include a copy of each ~~the~~ report prepared by an ~~the~~ expert  
19 physician reviewer under Section 154.0561. The license holder must  
20 provide to the board the license holder's rebuttal at least 15  
21 business days before the date of the meeting in order for the  
22 information to be considered at the meeting.

23 (f-1) Before providing a report to a license holder under  
24 Subsection (f), the board must redact any identifying information  
25 of an expert physician reviewer other than the specialty of the  
26 expert physician reviewer.

27 SECTION 12. Sections 164.005(a) and (c), Occupations Code,

1 are amended to read as follows:

2 (a) In this section, "formal complaint" means a written  
3 statement made by a credible person [~~under oath~~] that is filed and  
4 presented by a board representative charging a person with having  
5 committed an act that, if proven, could affect the legal rights or  
6 privileges of a license holder or other person under the board's  
7 jurisdiction.

8 (c) A charge must [~~be in the form of a written affidavit~~  
9 ~~that~~]:

10 (1) be [~~is~~] filed with the board's records custodian or  
11 assistant records custodian; and

12 (2) detail [~~details~~] the nature of the charge as  
13 required by this subtitle or other applicable law.

14 SECTION 13. Sections 164.006(a) and (b), Occupations Code,  
15 are amended to read as follows:

16 (a) Notice [~~Service of process~~] to [~~notify~~] the respondent  
17 of a hearing about the charges against the person must be served:

18 (1) in accordance with Chapter 2001, Government Code;  
19 and

20 (2) by certified mail.

21 (b) If notice [~~service~~] described by Subsection (a) is  
22 impossible or cannot be effected, the board shall publish once a  
23 week for two successive weeks a notice of the hearing in a newspaper  
24 published in the county of the last known place of practice in this  
25 state of the person, if known.

26 SECTION 14. Sections 164.007(a) and (a-1), Occupations  
27 Code, are amended to read as follows:

1 (a) The board by rule shall adopt procedures governing  
2 formal disposition of a contested case under Chapter 2001,  
3 Government Code. A formal hearing shall be conducted by an  
4 administrative law judge employed by the State Office of  
5 Administrative Hearings. After receiving the administrative law  
6 judge's findings of fact and conclusions of law, the board shall:

7 (1) dispose of the contested case by issuing a final  
8 order based on the administrative law judge's findings of fact and  
9 conclusions of law; or

10 (2) appeal the administrative law judge's findings of  
11 fact and conclusions of law in the manner provided by Section  
12 164.0072.

13 (a-1) Notwithstanding Section 2001.058(e), Government  
14 Code, the board may not change a finding of fact or conclusion of  
15 law or vacate or modify an order of the administrative law judge.  
16 ~~[The board may obtain judicial review of any finding of fact or~~  
17 ~~conclusion of law issued by the administrative law judge as~~  
18 ~~provided by Section 2001.058(f)(5), Government Code.] For each~~  
19 case, the board has the sole authority and discretion to determine  
20 the appropriate action or sanction. The ~~[, and the]~~ administrative  
21 law judge may not make any recommendation regarding the appropriate  
22 action or sanction.

23 SECTION 15. Subchapter A, Chapter 164, Occupations Code, is  
24 amended by adding Section 164.0072 to read as follows:

25 Sec. 164.0072. BOARD APPEAL OF FINDINGS OF FACT AND  
26 CONCLUSIONS OF LAW. (a) The board may, before disposing of a  
27 contested case by issuing a final order, obtain judicial review of

1 any finding of fact or conclusion of law issued by the  
2 administrative law judge by filing suit in a Travis County district  
3 court not later than the 30th day after the date the findings of  
4 fact and conclusions of law are issued.

5 (b) The board shall join in a suit filed under this section  
6 the respondent in the contested case for which the board seeks to  
7 obtain judicial review.

8 (c) The scope of judicial review under this section is the  
9 same as the scope of judicial review provided for an appeal under  
10 Section 164.009.

11 (d) After the court issues a final order in a suit filed  
12 under this section, the board shall dispose of the contested case by  
13 issuing a final order based on the court's final order. The  
14 respondent may not appeal a sanction ordered by the board unless the  
15 sanction exceeds the board's published sanctions guidelines.

16 SECTION 16. Section 164.052(a), Occupations Code, is  
17 amended to read as follows:

18 (a) A physician or an applicant for a license to practice  
19 medicine commits a prohibited practice if that person:

20 (1) submits to the board a false or misleading  
21 statement, document, or certificate in an application for a  
22 license;

23 (2) presents to the board a license, certificate, or  
24 diploma that was illegally or fraudulently obtained;

25 (3) commits fraud or deception in taking or passing an  
26 examination;

27 (4) uses alcohol or drugs in an intemperate manner

1 that, in the board's opinion, could endanger a patient's life;

2 (5) commits unprofessional or dishonorable conduct  
3 that is likely to deceive or defraud the public, as provided by  
4 Section 164.053, or injure the public;

5 (6) uses an advertising statement that is false,  
6 misleading, or deceptive;

7 (7) advertises professional superiority or the  
8 performance of professional service in a superior manner if that  
9 advertising is not readily subject to verification;

10 (8) purchases, sells, barter, or uses, or offers to  
11 purchase, sell, barter, or use, a medical degree, license,  
12 certificate, or diploma, or a transcript of a license, certificate,  
13 or diploma in or incident to an application to the board for a  
14 license to practice medicine;

15 (9) alters, with fraudulent intent, a medical license,  
16 certificate, or diploma, or a transcript of a medical license,  
17 certificate, or diploma;

18 (10) uses a medical license, certificate, or diploma,  
19 or a transcript of a medical license, certificate, or diploma that  
20 has been:

21 (A) fraudulently purchased or issued;

22 (B) counterfeited; or

23 (C) materially altered;

24 (11) impersonates or acts as proxy for another person  
25 in an examination required by this subtitle for a medical license;

26 (12) engages in conduct that subverts or attempts to  
27 subvert an examination process required by this subtitle for a

1 medical license;

2 (13) impersonates a physician or permits another to  
3 use the person's license or certificate to practice medicine in  
4 this state;

5 (14) directly or indirectly employs a person whose  
6 license to practice medicine has been suspended, canceled, or  
7 revoked;

8 (15) associates in the practice of medicine with a  
9 person:

10 (A) whose license to practice medicine has been  
11 suspended, canceled, or revoked; or

12 (B) who has been convicted of the unlawful  
13 practice of medicine in this state or elsewhere;

14 (16) performs or procures a criminal abortion, aids or  
15 abets in the procuring of a criminal abortion, attempts to perform  
16 or procure a criminal abortion, or attempts to aid or abet the  
17 performance or procurement of a criminal abortion;

18 (17) directly or indirectly aids or abets the practice  
19 of medicine by a person, partnership, association, or corporation  
20 that is not licensed to practice medicine by the board;

21 (18) performs an abortion on a woman who is pregnant  
22 with a viable unborn child during the third trimester of the  
23 pregnancy unless:

24 (A) the abortion is necessary to prevent the  
25 death of the woman;

26 (B) the viable unborn child has a severe,  
27 irreversible brain impairment; or

1 (C) the woman is diagnosed with a significant  
2 likelihood of suffering imminent severe, irreversible brain damage  
3 or imminent severe, irreversible paralysis;

4 (19) performs an abortion on an unemancipated minor  
5 without the written consent of the child's parent, managing  
6 conservator, or legal guardian or without a court order, as  
7 provided by Section 33.003 or 33.004, Family Code, unless the  
8 abortion is necessary due to a medical emergency, as defined by  
9 Section 171.002, Health and Safety Code;

10 (20) otherwise performs an abortion on an  
11 unemancipated minor in violation of Chapter 33, Family Code; ~~or~~

12 (21) performs or induces or attempts to perform or  
13 induce an abortion in violation of Subchapter C, F, or G, Chapter  
14 171, Health and Safety Code; or

15 (22) in complying with the procedures outlined in  
16 Sections 166.045 and 166.046, Health and Safety Code, wilfully  
17 fails to make a reasonable effort to transfer a patient to a  
18 physician who is willing to comply with a directive.

19 SECTION 17. Chapter 167, Occupations Code, is amended by  
20 adding Sections 167.012 and 167.013 to read as follows:

21 Sec. 167.012. MEMORANDUM OF UNDERSTANDING WITH BOARD. The  
22 governing board and the board shall enter into a memorandum of  
23 understanding to better coordinate services and operations of the  
24 program. The memorandum of understanding must be adopted by rule  
25 and:

26 (1) establish performance measures for the program,  
27 including the number of participants who successfully complete the

1 program;

2 (2) include a list of services the board will provide  
3 for the program; and

4 (3) require that an internal audit of the program be  
5 conducted at least once every three years to ensure the program is  
6 properly documenting and referring all noncompliance to the board.

7 Sec. 167.013. GIFTS, GRANTS, AND DONATIONS. In addition to  
8 any fees paid to the board or money appropriated to the board for  
9 the program, the governing board may receive and accept a gift,  
10 grant, donation, or other thing of value from any source, including  
11 the United States or a private source, for the program.

12 SECTION 18. Section 205.057, Occupations Code, is amended  
13 by amending Subsection (b) and adding Subsection (d) to read as  
14 follows:

15 (b) The training program must provide the person with  
16 information regarding:

17 (1) the law governing acupuncture board operations  
18 ~~[this chapter];~~

19 (2) the programs, ~~[operated by the acupuncture board,~~  
20 ~~[(3) the role and]~~ functions, rules, and budget of the  
21 acupuncture board;

22 (3) ~~[(4)]~~ the scope of and limitations on the  
23 rulemaking authority ~~[rules]~~ of the acupuncture board;

24 (4) ~~[(5) the current budget for the acupuncture board,~~  
25 ~~[(6)]~~ the results of the most recent formal audit of  
26 the acupuncture board;

27 (5) ~~[(7)]~~ the requirements of:

1           (A) laws relating to open meetings, public  
2 information, administrative procedure, and disclosing conflicts of  
3 interest; and

4           (B) other laws applicable to members of the  
5 acupuncture board in performing their duties; and

6           (6) [~~8~~] any applicable ethics policies adopted by  
7 the acupuncture board or the Texas Ethics Commission.

8           (d) The executive director shall create a training manual  
9 that includes the information required by Subsection (b). The  
10 executive director shall distribute a copy of the training manual  
11 annually to each acupuncture board member. Each board member shall  
12 sign and submit to the executive director a statement acknowledging  
13 that the member received the training manual.

14           SECTION 19. Subchapter E, Chapter 205, Occupations Code, is  
15 amended by adding Section 205.2025 to read as follows:

16           Sec. 205.2025. CRIMINAL HISTORY RECORD INFORMATION  
17 REQUIREMENT FOR LICENSE ISSUANCE. (a) The acupuncture board shall  
18 require that an applicant for a license submit a complete and  
19 legible set of fingerprints, on a form prescribed by the board, to  
20 the board or to the Department of Public Safety for the purpose of  
21 obtaining criminal history record information from the Department  
22 of Public Safety and the Federal Bureau of Investigation.

23           (b) The acupuncture board may not issue a license to a  
24 person who does not comply with the requirement of Subsection (a).

25           (c) The acupuncture board shall conduct a criminal history  
26 record information check of each applicant for a license using  
27 information:

1           (1) provided by the individual under this section; and  
2           (2) made available to the board by the Department of  
3 Public Safety, the Federal Bureau of Investigation, and any other  
4 criminal justice agency under Chapter 411, Government Code.

5           (d) The acupuncture board may:

6           (1) enter into an agreement with the Department of  
7 Public Safety to administer a criminal history record information  
8 check required under this section; and

9           (2) authorize the Department of Public Safety to  
10 collect from each applicant the costs incurred by the Department of  
11 Public Safety in conducting the criminal history record information  
12 check.

13           SECTION 20. Subchapter F, Chapter 205, Occupations Code, is  
14 amended by adding Section 205.2515 to read as follows:

15           Sec. 205.2515. CRIMINAL HISTORY RECORD INFORMATION  
16 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a license  
17 issued under this chapter shall submit a complete and legible set of  
18 fingerprints for purposes of performing a criminal history record  
19 information check of the applicant as provided by Section 205.2025.

20           (b) The acupuncture board may administratively suspend or  
21 refuse to renew the license of a person who does not comply with the  
22 requirement of Subsection (a).

23           (c) A license holder is not required to submit fingerprints  
24 under this section for the renewal of the license if the holder has  
25 previously submitted fingerprints under:

26           (1) Section 205.2025 for the initial issuance of the  
27 license; or

1           (2) this section as part of a prior renewal of a  
2 license.

3           SECTION 21. Subchapter E, Chapter 206, Occupations Code, is  
4 amended by adding Section 206.2025 to read as follows:

5           Sec. 206.2025. CRIMINAL HISTORY RECORD INFORMATION  
6 REQUIREMENT FOR LICENSE ISSUANCE. (a) The medical board shall  
7 require that an applicant for a license submit a complete and  
8 legible set of fingerprints, on a form prescribed by the board, to  
9 the board or to the Department of Public Safety for the purpose of  
10 obtaining criminal history record information from the Department  
11 of Public Safety and the Federal Bureau of Investigation.

12           (b) The medical board may not issue a license to a person who  
13 does not comply with the requirement of Subsection (a).

14           (c) The medical board shall conduct a criminal history  
15 record information check of each applicant for a license using  
16 information:

17                   (1) provided by the individual under this section; and

18                   (2) made available to the board by the Department of  
19 Public Safety, the Federal Bureau of Investigation, and any other  
20 criminal justice agency under Chapter 411, Government Code.

21           (d) The medical board may:

22                   (1) enter into an agreement with the Department of  
23 Public Safety to administer a criminal history record information  
24 check required under this section; and

25                   (2) authorize the Department of Public Safety to  
26 collect from each applicant the costs incurred by the Department of  
27 Public Safety in conducting the criminal history record information

1 check.

2 SECTION 22. Section 206.203(a), Occupations Code, is  
3 amended to read as follows:

4 (a) Except as provided by Section 206.206, to be eligible  
5 for a license, a person must:

6 (1) [~~be of good moral character,~~  
7 [~~2~~] have not been convicted of a felony or a crime  
8 involving moral turpitude;

9 (2) [~~3~~] not use drugs or alcohol to an extent that  
10 affects the applicant's professional competency;

11 (3) [~~4~~] not have had a license or certification  
12 revoked by a licensing agency or by a certifying professional  
13 organization; and

14 (4) [~~5~~] not have engaged in fraud or deceit in  
15 applying for a license under this chapter.

16 SECTION 23. Subchapter E, Chapter 206, Occupations Code, is  
17 amended by adding Section 206.2105 to read as follows:

18 Sec. 206.2105. CRIMINAL HISTORY RECORD INFORMATION  
19 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a license  
20 issued under this chapter shall submit a complete and legible set of  
21 fingerprints for purposes of performing a criminal history record  
22 information check of the applicant as provided by Section 206.2025.

23 (b) The medical board may administratively suspend or  
24 refuse to renew the license of a person who does not comply with the  
25 requirement of Subsection (a).

26 (c) A license holder is not required to submit fingerprints  
27 under this section for the renewal of the license if the holder has

1 previously submitted fingerprints under:

2 (1) Section 206.2025 for the initial issuance of the  
3 license; or

4 (2) this section as part of a prior renewal of a  
5 license.

6 SECTION 24. Section 601.002, Occupations Code, is amended  
7 by adding Subdivisions (10-a) and (10-b) to read as follows:

8 (10-a) "Radiologist" means a physician specializing  
9 in radiology certified by or board-eligible for the American Board  
10 of Radiology, the American Osteopathic Board of Radiology, the  
11 Royal College of Radiologists, or the Royal College of Physicians  
12 and Surgeons of Canada.

13 (10-b) "Radiologist assistant" means an  
14 advanced-level medical radiologic technologist who is certified  
15 as:

16 (A) a registered radiologist assistant by the  
17 American Registry of Radiologic Technologists; or

18 (B) a radiology practitioner assistant by the  
19 Certification Board for Radiology Practitioner Assistants.

20 SECTION 25. Section 601.030, Occupations Code, is amended  
21 by amending Subsection (b) and adding Subsection (d) to read as  
22 follows:

23 (b) The training program must provide the person with  
24 information regarding:

25 (1) the law governing advisory board operations;

26 (2) [this chapter and] the [advisory board's]  
27 programs, functions, rules, and budget of the advisory board;

1           (3) the scope of and limitations on the rulemaking  
2 authority of the advisory board;

3           (4) [~~(2)~~] the results of the most recent formal audit  
4 of the advisory board;

5           (5) [~~(3)~~] the requirements of:

6                   (A) laws relating to open meetings, public  
7 information, administrative procedure, and disclosing conflicts of  
8 interest; and

9                   (B) other laws applicable to members of the  
10 advisory board in performing their duties; and

11           (6) [~~(4)~~] any applicable ethics policies adopted by  
12 the advisory board or the Texas Ethics Commission.

13           (d) The executive director of the medical board shall create  
14 a training manual that includes the information required by  
15 Subsection (b). The executive director shall distribute a copy of  
16 the training manual annually to each advisory board member. Each  
17 board member shall sign and submit to the executive director a  
18 statement acknowledging that the member received the training  
19 manual.

20           SECTION 26. Sections 601.102(b) and (c), Occupations Code,  
21 are amended to read as follows:

22           (b) The advisory board may issue to a person:

23                   (1) a general certificate to perform radiologic  
24 procedures; [~~or~~]

25                   (2) a limited certificate that authorizes the person  
26 to perform radiologic procedures only on specific parts of the  
27 human body; or

1           (3) a radiologist assistant certificate to a person  
2 who meets the requirements established under Section 601.1021.

3           (c) The advisory board may issue to a person a temporary  
4 general certificate, ~~[or]~~ a temporary limited certificate, or a  
5 temporary radiologist assistant certificate that authorizes the  
6 person to perform radiologic procedures for a period not to exceed  
7 one year.

8           SECTION 27. Subchapter C, Chapter 601, Occupations Code, is  
9 amended by adding Section 601.1021 to read as follows:

10           Sec. 601.1021. RADIOLOGIST ASSISTANT CERTIFICATE. (a) The  
11 advisory board by rule shall establish the education and training  
12 required for a person to obtain a radiologist assistant  
13 certificate.

14           (b) A radiologist assistant certificate holder:

15                   (1) may perform radiologic procedures only under the  
16 supervision of a radiologist; and

17                   (2) may not interpret images, make diagnoses, or  
18 prescribe any medication or therapy.

19           SECTION 28. Section 604.030, Occupations Code, is amended  
20 by amending Subsection (b) and adding Subsection (d) to read as  
21 follows:

22           (b) The training program must provide the person with  
23 information regarding:

24                   (1) the law governing advisory board operations;

25                   (2) the ~~[this chapter and the advisory board's]~~  
26 programs, functions, rules, and budget of the advisory board;

27                   (3) the scope of and limitations on the rulemaking

1 authority of the advisory board;

2           (4) [~~(2)~~] the results of the most recent formal audit  
3 of the advisory board;

4           (5) [~~(3)~~] the requirements of:

5               (A) laws relating to open meetings, public  
6 information, administrative procedure, and disclosing conflicts of  
7 interest; and

8               (B) other laws applicable to members of the  
9 advisory board in performing their duties; and

10           (6) [~~(4)~~] any applicable ethics policies adopted by  
11 the advisory board or the Texas Ethics Commission.

12           (d) The executive director of the medical board shall create  
13 a training manual that includes the information required by  
14 Subsection (b). The executive director shall distribute a copy of  
15 the training manual annually to each advisory board member. Each  
16 board member shall sign and submit to the executive director a  
17 statement acknowledging that the member received the training  
18 manual.

19           SECTION 29. Sections 155.056(c) and (d), Occupations Code,  
20 are repealed.

21           SECTION 30. (a) Except as provided by Subsection (b) of  
22 this section, Sections 152.010, 205.057, 601.030, and 604.030,  
23 Occupations Code, as amended by this Act, apply to a member of the  
24 applicable board appointed before, on, or after the effective date  
25 of this Act.

26           (b) A member of a board who, before the effective date of  
27 this Act, completed the training program required by Section

1 152.010, 205.057, 601.030, or 604.030, Occupations Code, as the  
2 applicable law existed before the effective date of this Act, is  
3 only required to complete additional training on subjects added by  
4 this Act to the training program required by, as applicable,  
5 Section 152.010, 205.057, 601.030, or 604.030, Occupations Code, as  
6 amended by this Act. A board member described by this subsection  
7 may not vote, deliberate, or be counted as a member in attendance at  
8 a meeting of the applicable board held on or after December 1, 2019,  
9 until the member completes the additional training.

10 SECTION 31. Not later than March 1, 2020, the Texas Medical  
11 Board shall adopt rules necessary to implement Section 164.003(b),  
12 Occupations Code, as amended by this Act.

13 SECTION 32. Not later than January 1, 2020, the Texas  
14 Medical Board and the governing board of the Texas Physician Health  
15 Program by rule shall adopt the memorandum of understanding  
16 required by Section 167.012, Occupations Code, as added by this  
17 Act.

18 SECTION 33. Not later than September 1, 2021, the Texas  
19 State Board of Acupuncture Examiners and the Texas Medical Board  
20 shall obtain criminal history record information on each person  
21 who, on the effective date of this Act, holds a license issued under  
22 Chapter 205 or 206, Occupations Code, as applicable, and did not  
23 undergo a criminal history record information check based on the  
24 license holder's fingerprints on the initial application for the  
25 license. A board may suspend the license of a license holder who  
26 does not provide the criminal history record information as  
27 required by the board and this section.

1           SECTION 34. Not later than January 1, 2020, the Texas  
2 Medical Board shall approve the rules required by Section 601.1021,  
3 Occupations Code, as added by this Act.

4           SECTION 35. This Act takes effect September 1, 2019.

**ADOPTED**

MAY 14 2019

*Hetty Spaul*  
Secretary of the Senate

By: Padric Nichols

\_\_\_\_.B. No. \_\_\_\_

Substitute the following for \_\_\_\_B. No. \_\_\_\_:

By: Charles Perry

C.S.H.B. No. 1504

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Medical  
3 Board; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 151.004, Occupations Code, is amended to  
6 read as follows:

7 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical  
8 Board is subject to Chapter 325, Government Code (Texas Sunset  
9 Act). Unless continued in existence as provided by that chapter,  
10 the board is abolished and this subtitle and Chapters 204, 205, 206,  
11 601, 602, 603, and 604 expire September 1, 2031 [~~2019~~].

12 SECTION 2. Section 152.010, Occupations Code, is amended by  
13 amending Subsection (b) and adding Subsection (d) to read as  
14 follows:

15 (b) The training program must provide the person with  
16 information regarding:

17 (1) the law governing board operations [~~this~~  
18 ~~subtitle~~];

19 (2) the programs, functions, rules, and budget of  
20 ~~[operated by]~~ the board;

21 (3) the scope of and limitations on the rulemaking  
22 authority [~~role and functions~~] of the board;

23 (4) the types of board rules, interpretations, and  
24 enforcement actions that may implicate federal antitrust law by

1 limiting competition or impacting prices charged by persons engaged  
2 in a profession or business the board regulates, including any  
3 rule, interpretation, or enforcement action that:

4 (A) regulates the scope of practice of persons in  
5 a profession or business the board regulates;

6 (B) restricts advertising by persons in a  
7 profession or business the board regulates;

8 (C) affects the price of goods or services  
9 provided by persons in a profession or business the board  
10 regulates; or

11 (D) restricts participation in a profession or  
12 business the board regulates [~~the rules of the board, with an~~  
13 ~~emphasis on the rules that relate to disciplinary and investigatory~~  
14 ~~authority];~~

15 (5) [~~the current budget for the board,~~  
16 [~~6~~] the results of the most recent formal audit of  
17 the board;

18 (6) [~~7~~] the requirements of:

19 (A) laws relating to open meetings, public  
20 information, administrative procedure, and disclosure of conflicts  
21 of interest; and

22 (B) other laws applicable to members of the board  
23 in performing their duties; and

24 (7) [~~8~~] any applicable ethics policies adopted by  
25 the board or the Texas Ethics Commission.

26 (d) The executive director of the board shall create a  
27 training manual that includes the information required by

1 Subsection (b). The executive director shall distribute a copy of  
2 the training manual annually to each board member. Each board  
3 member shall sign and submit to the executive director a statement  
4 acknowledging that the member received and has reviewed the  
5 training manual.

6 SECTION 3. Section 153.058(a), Occupations Code, is amended  
7 to read as follows:

8 (a) The board shall develop and implement a policy to  
9 encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter  
11 2008, Government Code, for the adoption of any rules by the board  
12 [~~rules~~]; and

13 (2) appropriate alternative dispute resolution  
14 procedures under Chapter 2009, Government Code, to assist in the  
15 resolution of internal and external disputes under the board's  
16 jurisdiction.

17 SECTION 4. Section 154.006, Occupations Code, is amended by  
18 amending Subsections (b) and (k) and adding Subsection (b-1) to  
19 read as follows:

20 (b) Except as otherwise provided by this section, a [A]  
21 profile must contain the following information on each physician:

22 (1) the name of each medical school attended and the  
23 dates of:

24 (A) graduation; or

25 (B) Fifth Pathway designation and completion of  
26 the Fifth Pathway Program;

27 (2) a description of all graduate medical education in

1 the United States or Canada;

2 (3) any specialty certification held by the physician  
3 and issued by a medical licensing board that is a member of the  
4 American Board of Medical Specialties or the Bureau of Osteopathic  
5 Specialists;

6 (4) the number of years the physician has actively  
7 practiced medicine in:

8 (A) the United States or Canada; and

9 (B) this state;

10 (5) the name of each hospital in this state in which  
11 the physician has privileges;

12 (6) the physician's primary practice location;

13 (7) the type of language translating services,  
14 including translating services for a person with impairment of  
15 hearing, that the physician provides at the physician's primary  
16 practice location;

17 (8) whether the physician participates in the Medicaid  
18 program;

19 (9) a description of any conviction for a felony, a  
20 Class A or Class B misdemeanor, or a Class C misdemeanor involving  
21 moral turpitude;

22 (10) a description of any charges reported to the  
23 board to which the physician has pleaded no contest, for which the  
24 physician is the subject of deferred adjudication or pretrial  
25 diversion, or in which sufficient facts of guilt were found and the  
26 matter was continued by a court;

27 (11) a description of any disciplinary action against

1 the physician by the board;

2 (12) a description of any disciplinary action against  
3 the physician by a medical licensing board of another state;

4 (13) a description of the final resolution taken by  
5 the board on medical malpractice claims or complaints required to  
6 be opened by the board under Section 164.201;

7 (14) whether the physician's patient service areas are  
8 accessible to disabled persons, as defined by federal law;

9 (15) a description of any formal complaint against the  
10 physician initiated and filed under Section 164.005 and the status  
11 of the complaint; and

12 (16) a description of any medical malpractice claim  
13 against the physician, not including a description of any offers by  
14 the physician to settle the claim, for which the physician was found  
15 liable, a jury awarded monetary damages to the claimant, and the  
16 award has been determined to be final and not subject to further  
17 appeal.

18 (b-1) On or after the fifth anniversary of the date a  
19 remedial plan is issued under Section 164.0015, the board may  
20 remove from the profile of the physician subject to the plan any  
21 information regarding the plan and the complaint resolved by the  
22 plan unless:

23 (1) the complaint was related to the delivery of  
24 health care; or

25 (2) more than one remedial plan has been issued to  
26 resolve complaints alleging the same violation by the physician,  
27 including a complaint not related to the delivery of health care.

1 (k) In the annual update of a physician's profile under  
2 Subsection (g), the board shall remove any record of a formal  
3 complaint required under Subsection (b)(15) or (i) if the complaint  
4 ~~[was dismissed more than five years before the date of the update~~  
5 ~~and the complaint]~~ was dismissed as baseless, unfounded, or not  
6 supported by sufficient evidence that a violation occurred, or no  
7 action was taken against the physician's license as a result of the  
8 complaint. The board shall also remove any record of the  
9 investigation of medical malpractice claims or complaints required  
10 to be investigated by the board under Section 164.201 if the  
11 investigation was resolved ~~[more than five years before the date of~~  
12 ~~the update]~~ and no action was taken against the physician's license  
13 as a result of the investigation.

14 SECTION 5. Subchapter A, Chapter 155, Occupations Code, is  
15 amended by adding Section 155.011 to read as follows:

16 Sec. 155.011. EXPEDITED LICENSING PROCESS FOR CERTAIN  
17 OUT-OF-STATE APPLICANTS. The board by rule shall develop and  
18 implement an expedited licensing process for an applicant who is  
19 considered to have satisfied the examination requirements of this  
20 chapter under Section 155.0561(d).

21 SECTION 6. Section 155.056(a), Occupations Code, is amended  
22 to read as follows:

23 (a) Except as otherwise provided by Subsection (a-1) and  
24 Section 155.0561, an applicant must pass each part of an  
25 examination within three attempts.

26 SECTION 7. Subchapter B, Chapter 155, Occupations Code, is  
27 amended by adding Section 155.0561 to read as follows:

1           Sec. 155.0561. EXCEPTIONS TO EXAMINATION ATTEMPT LIMITS FOR  
2 CERTAIN OUT-OF-STATE APPLICANTS. (a) In this section:

3           (1) "Active practice" means the practice of medicine  
4 by a person after successful completion of a residency, fellowship,  
5 or other supervised training program.

6           (2) "Full license" means a license to practice  
7 medicine that is not a training license, a permit, or any other form  
8 of authority to practice medicine issued to a person while the  
9 person is completing or enrolled in a residency, fellowship, or  
10 other supervised training program.

11           (b) This section applies only to an applicant who:

12           (1) has successfully completed a graduate medical  
13 education program approved by the board;

14           (2) holds a full license and is in good standing as a  
15 physician in another state or Canada;

16           (3) does not hold and has never held a medical license  
17 subject to any restriction, disciplinary order, or probation;

18           (4) is not and has never been the subject of a peer  
19 review that has resulted or may result in limitation, restriction,  
20 suspension, or other adverse impact on the applicant's hospital or  
21 other medical facility privileges; and

22           (5) is not under investigation by any licensing or law  
23 enforcement agency.

24           (c) An applicant described by Subsection (b) who has held a  
25 full license and been in active practice for at least one year but  
26 less than five years and has passed within three attempts all but  
27 one part of the examination approved by the board is considered to

1 have satisfied the examination requirements of this chapter if the  
2 applicant passed the remaining part of the examination within:

3 (1) one additional attempt; or

4 (2) three additional attempts, if the applicant is  
5 specialty board certified by a specialty board that is:

6 (A) a member of the American Board of Medical  
7 Specialties; or

8 (B) approved by the American Osteopathic  
9 Association.

10 (d) An applicant described by Subsection (b) who has held a  
11 full license and been in active practice for at least five years is  
12 considered to have satisfied the examination requirements of this  
13 chapter regardless of the type of examination the applicant passed  
14 or the number of attempts within which the applicant passed the  
15 examination or any part of the examination.

16 SECTION 8. Section 162.106, Occupations Code, is amended to  
17 read as follows:

18 Sec. 162.106. INSPECTIONS. (a) The board may conduct  
19 inspections [~~to enforce this subchapter, including inspections of~~  
20 ~~an office site and of documents]~~ of a physician's equipment and  
21 office procedures [~~practice~~] that relate to the provision of  
22 anesthesia in an outpatient setting as necessary to enforce this  
23 subchapter.

24 (b) The board may establish a risk-based inspection process  
25 in which the board conducts inspections based on the length of time  
26 since:

27 (1) the equipment and outpatient setting were last

1 inspected; and

2 (2) the physician submitted to inspection.

3 (c) The board may contract with another state agency or  
4 qualified person to conduct the inspections.

5 (d) [~~(b)~~] Unless it would jeopardize an ongoing  
6 investigation, the board shall provide at least five business days'  
7 notice before conducting an on-site inspection under this section.

8 (e) The board shall maintain a record of the outpatient  
9 settings in which physicians provide anesthesia.

10 (f) A physician who provides anesthesia in an outpatient  
11 setting shall inform the board of any other physician with whom the  
12 physician shares equipment used to administer anesthesia.

13 (g) [~~(e)~~] This section does not require the board to make an  
14 on-site inspection of a physician's office.

15 SECTION 9. Section 164.0015(d), Occupations Code, is  
16 amended to read as follows:

17 (d) The board may not issue a remedial plan to resolve a  
18 complaint against a license holder if the license holder has  
19 [~~previously~~] entered into a remedial plan with the board in the  
20 preceding five years [~~for the resolution of a different complaint~~  
21 ~~relating to this subtitle~~].

22 SECTION 10. Section 164.003, Occupations Code, is amended  
23 by amending Subsections (b) and (f) and adding Subsection (f-1) to  
24 read as follows:

25 (b) Rules adopted under this section must require that:

26 (1) an informal meeting in compliance with Section  
27 2001.054, Government Code, be scheduled not later than the 180th

1 day after the date the board's official investigation of the  
2 complaint is commenced as provided by Section 154.057(b), unless  
3 good cause is shown by the board for scheduling the informal meeting  
4 after that date;

5 (2) the board give notice to the license holder of the  
6 time and place of the meeting not later than the 45th day before the  
7 date the meeting is held;

8 (3) the complainant and the license holder be provided  
9 an opportunity to be heard;

10 (4) at least one of the board members or district  
11 review committee members participating in the informal meeting as a  
12 panelist be a member who represents the public;

13 (5) the board's legal counsel or a representative of  
14 the attorney general be present to advise the board or the board's  
15 staff; ~~and~~

16 (6) a member of the board's staff be at the meeting to  
17 present to the board's representative the facts the staff  
18 reasonably believes it could prove by competent evidence or  
19 qualified witnesses at a hearing; and

20 (7) if the complaint includes an allegation that the  
21 license holder has violated the standard of care, the panel  
22 conducting the informal proceeding consider whether the physician  
23 was practicing complementary and alternative medicine.

24 (f) The notice required by Subsection (b)(2) must be  
25 accompanied by a written statement of the nature of the allegations  
26 and the information the board intends to use at the meeting. If the  
27 board does not provide the statement or information at that time,

1 the license holder may use that failure as grounds for rescheduling  
2 the informal meeting. If the complaint includes an allegation that  
3 the license holder has violated the standard of care, the notice  
4 must include a copy of each ~~[the]~~ report prepared by an ~~[the]~~ expert  
5 physician reviewer under Section 154.0561. The license holder must  
6 provide to the board the license holder's rebuttal at least 15  
7 business days before the date of the meeting in order for the  
8 information to be considered at the meeting.

9 (f-1) Before providing a report to a license holder under  
10 Subsection (f), the board must redact any identifying information  
11 of an expert physician reviewer other than the specialty of the  
12 expert physician reviewer.

13 SECTION 11. Sections 164.005(a) and (c), Occupations Code,  
14 are amended to read as follows:

15 (a) In this section, "formal complaint" means a written  
16 statement made by a credible person ~~[under oath]~~ that is filed and  
17 presented by a board representative charging a person with having  
18 committed an act that, if proven, could affect the legal rights or  
19 privileges of a license holder or other person under the board's  
20 jurisdiction.

21 (c) A charge must ~~[be in the form of a written affidavit~~  
22 ~~that]~~:

23 (1) be ~~[is]~~ filed with the board's records custodian or  
24 assistant records custodian; and

25 (2) detail ~~[details]~~ the nature of the charge as  
26 required by this subtitle or other applicable law.

27 SECTION 12. Sections 164.006(a) and (b), Occupations Code,

1 are amended to read as follows:

2 (a) Notice [~~Service of process~~] to [~~notify~~] the respondent  
3 of a hearing about the charges against the person must be served:

4 (1) in accordance with Chapter 2001, Government Code;  
5 and

6 (2) by certified mail.

7 (b) If notice [~~service~~] described by Subsection (a) is  
8 impossible or cannot be effected, the board shall publish once a  
9 week for two successive weeks a notice of the hearing in a newspaper  
10 published in the county of the last known place of practice in this  
11 state of the person, if known.

12 SECTION 13. Chapter 167, Occupations Code, is amended by  
13 adding Sections 167.012 and 167.013 to read as follows:

14 Sec. 167.012. MEMORANDUM OF UNDERSTANDING WITH BOARD. The  
15 governing board and the board shall enter into a memorandum of  
16 understanding to better coordinate services and operations of the  
17 program. The memorandum of understanding must be adopted by rule  
18 and:

19 (1) establish performance measures for the program,  
20 including the number of participants who successfully complete the  
21 program;

22 (2) include a list of services the board will provide  
23 for the program; and

24 (3) require that an internal audit of the program be  
25 conducted at least once every three years to ensure the program is  
26 properly documenting and referring all noncompliance to the board.

27 Sec. 167.013. GIFTS, GRANTS, AND DONATIONS. In addition to

1 any fees paid to the board or money appropriated to the board for  
2 the program, the governing board may receive and accept a gift,  
3 grant, donation, or other thing of value from any source, including  
4 the United States or a private source, for the program.

5 SECTION 14. Section 205.057, Occupations Code, is amended  
6 by amending Subsection (b) and adding Subsection (d) to read as  
7 follows:

8 (b) The training program must provide the person with  
9 information regarding:

10 (1) the law governing acupuncture board operations  
11 [~~this chapter~~];

12 (2) the programs, [~~operated by the acupuncture board,~~  
13 [~~(3) the role and~~] functions, rules, and budget of the  
14 acupuncture board;

15 (3) [~~(4)~~] the scope of and limitations on the  
16 rulemaking authority [~~rules~~] of the acupuncture board;

17 (4) the types of acupuncture board rules,  
18 interpretations, and enforcement actions that may implicate  
19 federal antitrust law by limiting competition or impacting prices  
20 charged by persons engaged in a profession or business the  
21 acupuncture board regulates, including any rule, interpretation,  
22 or enforcement action that:

23 (A) regulates the scope of practice of persons in  
24 a profession or business the acupuncture board regulates;

25 (B) restricts advertising by persons in a  
26 profession or business the acupuncture board regulates;

27 (C) affects the price of goods or services

1 provided by persons in a profession or business the acupuncture  
2 board regulates; or

3 (D) restricts participation in a profession or  
4 business the acupuncture board regulates;

5 (5) [~~the current budget for the acupuncture board,~~  
6 [~~6~~] the results of the most recent formal audit of  
7 the acupuncture board;

8 (6) [~~7~~] the requirements of:

9 (A) laws relating to open meetings, public  
10 information, administrative procedure, and disclosure of conflicts  
11 of interest; and

12 (B) other laws applicable to members of the  
13 acupuncture board in performing their duties; and

14 (7) [~~8~~] any applicable ethics policies adopted by  
15 the acupuncture board or the Texas Ethics Commission.

16 (d) The executive director shall create a training manual  
17 that includes the information required by Subsection (b). The  
18 executive director shall distribute a copy of the training manual  
19 annually to each acupuncture board member. Each board member shall  
20 sign and submit to the executive director a statement acknowledging  
21 that the member received and has reviewed the training manual.

22 SECTION 15. Subchapter E, Chapter 205, Occupations Code, is  
23 amended by adding Section 205.2025 to read as follows:

24 Sec. 205.2025. CRIMINAL HISTORY RECORD INFORMATION  
25 REQUIREMENT FOR LICENSE ISSUANCE. (a) The acupuncture board shall  
26 require that an applicant for a license submit a complete and  
27 legible set of fingerprints, on a form prescribed by the board, to

1 the board or to the Department of Public Safety for the purpose of  
2 obtaining criminal history record information from the Department  
3 of Public Safety and the Federal Bureau of Investigation.

4 (b) The acupuncture board may not issue a license to a  
5 person who does not comply with the requirement of Subsection (a).

6 (c) The acupuncture board shall conduct a criminal history  
7 record information check of each applicant for a license using  
8 information:

9 (1) provided by the individual under this section; and

10 (2) made available to the board by the Department of  
11 Public Safety, the Federal Bureau of Investigation, and any other  
12 criminal justice agency under Chapter 411, Government Code.

13 (d) The acupuncture board may:

14 (1) enter into an agreement with the Department of  
15 Public Safety to administer a criminal history record information  
16 check required under this section; and

17 (2) authorize the Department of Public Safety to  
18 collect from each applicant the costs incurred by the Department of  
19 Public Safety in conducting the criminal history record information  
20 check.

21 SECTION 16. Subchapter F, Chapter 205, Occupations Code, is  
22 amended by adding Section 205.2515 to read as follows:

23 Sec. 205.2515. CRIMINAL HISTORY RECORD INFORMATION  
24 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a license  
25 issued under this chapter shall submit a complete and legible set of  
26 fingerprints for purposes of performing a criminal history record  
27 information check of the applicant as provided by Section 205.2025.

1           (b) The acupuncture board may administratively suspend or  
2 refuse to renew the license of a person who does not comply with the  
3 requirement of Subsection (a).

4           (c) A license holder is not required to submit fingerprints  
5 under this section for the renewal of the license if the holder has  
6 previously submitted fingerprints under:

7                   (1) Section 205.2025 for the initial issuance of the  
8 license; or

9                   (2) this section as part of a prior renewal of a  
10 license.

11           SECTION 17. Subchapter E, Chapter 206, Occupations Code, is  
12 amended by adding Section 206.2025 to read as follows:

13           Sec. 206.2025. CRIMINAL HISTORY RECORD INFORMATION  
14 REQUIREMENT FOR LICENSE ISSUANCE. (a) The medical board shall  
15 require that an applicant for a license submit a complete and  
16 legible set of fingerprints, on a form prescribed by the board, to  
17 the board or to the Department of Public Safety for the purpose of  
18 obtaining criminal history record information from the Department  
19 of Public Safety and the Federal Bureau of Investigation.

20                   (b) The medical board may not issue a license to a person who  
21 does not comply with the requirement of Subsection (a).

22                   (c) The medical board shall conduct a criminal history  
23 record information check of each applicant for a license using  
24 information:

25                           (1) provided by the individual under this section; and

26                           (2) made available to the board by the Department of  
27 Public Safety, the Federal Bureau of Investigation, and any other

1 criminal justice agency under Chapter 411, Government Code.

2 (d) The medical board may:

3 (1) enter into an agreement with the Department of  
4 Public Safety to administer a criminal history record information  
5 check required under this section; and

6 (2) authorize the Department of Public Safety to  
7 collect from each applicant the costs incurred by the Department of  
8 Public Safety in conducting the criminal history record information  
9 check.

10 SECTION 18. Section 206.203(a), Occupations Code, is  
11 amended to read as follows:

12 (a) Except as provided by Section 206.206, to be eligible  
13 for a license, a person must:

14 (1) ~~[be of good moral character,~~  
15 ~~[+2)]~~ have not been convicted of a felony or a crime  
16 involving moral turpitude;

17 (2) ~~[+3)]~~ not use drugs or alcohol to an extent that  
18 affects the applicant's professional competency;

19 (3) ~~[+4)]~~ not have had a license or certification  
20 revoked by a licensing agency or by a certifying professional  
21 organization; and

22 (4) ~~[+5)]~~ not have engaged in fraud or deceit in  
23 applying for a license under this chapter.

24 SECTION 19. Subchapter E, Chapter 206, Occupations Code, is  
25 amended by adding Section 206.2105 to read as follows:

26 Sec. 206.2105. CRIMINAL HISTORY RECORD INFORMATION  
27 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a license

1 issued under this chapter shall submit a complete and legible set of  
2 fingerprints for purposes of performing a criminal history record  
3 information check of the applicant as provided by Section 206.2025.

4 (b) The medical board may administratively suspend or  
5 refuse to renew the license of a person who does not comply with the  
6 requirement of Subsection (a).

7 (c) A license holder is not required to submit fingerprints  
8 under this section for the renewal of the license if the holder has  
9 previously submitted fingerprints under:

10 (1) Section 206.2025 for the initial issuance of the  
11 license; or

12 (2) this section as part of a prior renewal of a  
13 license.

14 SECTION 20. Section 601.002, Occupations Code, is amended  
15 by adding Subdivisions (10-a) and (10-b) to read as follows:

16 (10-a) "Radiologist" means a physician specializing  
17 in radiology certified by or board-eligible for the American Board  
18 of Radiology, the American Osteopathic Board of Radiology, the  
19 Royal College of Radiologists, or the Royal College of Physicians  
20 and Surgeons of Canada.

21 (10-b) "Radiologist assistant" means an  
22 advanced-level medical radiologic technologist who is certified  
23 as:

24 (A) a registered radiologist assistant by the  
25 American Registry of Radiologic Technologists; or

26 (B) a radiology practitioner assistant by the  
27 Certification Board for Radiology Practitioner Assistants.

1           SECTION 21. Section 601.030, Occupations Code, is amended  
2 by amending Subsection (b) and adding Subsection (d) to read as  
3 follows:

4           (b) The training program must provide the person with  
5 information regarding:

6                   (1) the law governing advisory board operations;

7                   (2) [~~this chapter and~~] the [~~advisory board's~~]  
8 programs, functions, rules, and budget of the advisory board;

9                   (3) the scope of and limitations on the rulemaking  
10 authority of the advisory board;

11                   (4) the types of advisory board rules,  
12 interpretations, and enforcement actions that may implicate  
13 federal antitrust law by limiting competition or impacting prices  
14 charged by persons engaged in a profession or business the advisory  
15 board regulates, including any rule, interpretation, or  
16 enforcement action that:

17                           (A) regulates the scope of practice of persons in  
18 a profession or business the advisory board regulates;

19                           (B) restricts advertising by persons in a  
20 profession or business the advisory board regulates;

21                           (C) affects the price of goods or services  
22 provided by persons in a profession or business the advisory board  
23 regulates; or

24                           (D) restricts participation in a profession or  
25 business the advisory board regulates;

26                   (5) [~~2~~] the results of the most recent formal audit  
27 of the advisory board;

1           (6) [~~3~~] the requirements of:

2           (A) laws relating to open meetings, public  
3 information, administrative procedure, and disclosure of conflicts  
4 of interest; and

5           (B) other laws applicable to members of the  
6 advisory board in performing their duties; and

7           (7) [~~4~~] any applicable ethics policies adopted by  
8 the advisory board or the Texas Ethics Commission.

9           (d) The executive director of the medical board shall create  
10 a training manual that includes the information required by  
11 Subsection (b). The executive director shall distribute a copy of  
12 the training manual annually to each advisory board member. Each  
13 board member shall sign and submit to the executive director a  
14 statement acknowledging that the member received and has reviewed  
15 the training manual.

16           SECTION 22. Sections 601.102(b) and (c), Occupations Code,  
17 are amended to read as follows:

18           (b) The advisory board may issue to a person:

19           (1) a general certificate to perform radiologic  
20 procedures; [~~or~~]

21           (2) a limited certificate that authorizes the person  
22 to perform radiologic procedures only on specific parts of the  
23 human body; or

24           (3) a radiologist assistant certificate to a person  
25 who meets the requirements established under Section 601.1021.

26           (c) The advisory board may issue to a person a temporary  
27 general certificate, [~~or~~] a temporary limited certificate, or a

1 temporary radiologist assistant certificate that authorizes the  
2 person to perform radiologic procedures for a period not to exceed  
3 one year.

4 SECTION 23. Subchapter C, Chapter 601, Occupations Code, is  
5 amended by adding Section 601.1021 to read as follows:

6 Sec. 601.1021. RADIOLOGIST ASSISTANT CERTIFICATE. (a) The  
7 advisory board by rule shall establish the education and training  
8 required for a person to obtain a radiologist assistant  
9 certificate.

10 (b) A radiologist assistant certificate holder:

11 (1) may perform radiologic procedures only under the  
12 supervision of a radiologist; and

13 (2) may not interpret images, make diagnoses, or  
14 prescribe any medication or therapy.

15 SECTION 24. Section 604.030, Occupations Code, is amended  
16 by amending Subsection (b) and adding Subsection (d) to read as  
17 follows:

18 (b) The training program must provide the person with  
19 information regarding:

20 (1) the law governing advisory board operations;

21 (2) the [~~this chapter and the advisory board's~~]  
22 programs, functions, rules, and budget of the advisory board;

23 (3) the scope of and limitations on the rulemaking  
24 authority of the advisory board;

25 (4) the types of advisory board rules,  
26 interpretations, and enforcement actions that may implicate  
27 federal antitrust law by limiting competition or impacting prices

1 charged by persons engaged in a profession or business the advisory  
2 board regulates, including any rule, interpretation, or  
3 enforcement action that:

4 (A) regulates the scope of practice of persons in  
5 a profession or business the advisory board regulates;

6 (B) restricts advertising by persons in a  
7 profession or business the advisory board regulates;

8 (C) affects the price of goods or services  
9 provided by persons in a profession or business the advisory board  
10 regulates; or

11 (D) restricts participation in a profession or  
12 business the advisory board regulates;

13 (5) [~~2~~] the results of the most recent formal audit  
14 of the advisory board;

15 (6) [~~3~~] the requirements of:

16 (A) laws relating to open meetings, public  
17 information, administrative procedure, and disclosure of conflicts  
18 of interest; and

19 (B) other laws applicable to members of the  
20 advisory board in performing their duties; and

21 (7) [~~4~~] any applicable ethics policies adopted by  
22 the advisory board or the Texas Ethics Commission.

23 (d) The executive director of the medical board shall create  
24 a training manual that includes the information required by  
25 Subsection (b). The executive director shall distribute a copy of  
26 the training manual annually to each advisory board member. Each  
27 board member shall sign and submit to the executive director a

1 statement acknowledging that the member received and has reviewed  
2 the training manual.

3 SECTION 25. Sections 155.056(c) and (d), Occupations Code,  
4 are repealed.

5 SECTION 26. (a) Except as provided by Subsection (b) of  
6 this section, Sections 152.010, 205.057, 601.030, and 604.030,  
7 Occupations Code, as amended by this Act, apply to a member of the  
8 applicable board appointed before, on, or after the effective date  
9 of this Act.

10 (b) A member of a board who, before the effective date of  
11 this Act, completed the training program required by Section  
12 152.010, 205.057, 601.030, or 604.030, Occupations Code, as the  
13 applicable law existed before the effective date of this Act, is  
14 only required to complete additional training on subjects added by  
15 this Act to the training program required by, as applicable,  
16 Section 152.010, 205.057, 601.030, or 604.030, Occupations Code, as  
17 amended by this Act. A board member described by this subsection  
18 may not vote, deliberate, or be counted as a member in attendance at  
19 a meeting of the applicable board held on or after December 1, 2019,  
20 until the member completes the additional training.

21 SECTION 27. Not later than March 1, 2020, the Texas Medical  
22 Board shall adopt rules necessary to implement Section 164.003(b),  
23 Occupations Code, as amended by this Act.

24 SECTION 28. Not later than January 1, 2020, the Texas  
25 Medical Board and the governing board of the Texas Physician Health  
26 Program by rule shall adopt the memorandum of understanding  
27 required by Section 167.012, Occupations Code, as added by this

1 Act.

2 SECTION 29. Not later than September 1, 2021, the Texas  
3 State Board of Acupuncture Examiners and the Texas Medical Board  
4 shall obtain criminal history record information on each person  
5 who, on the effective date of this Act, holds a license issued under  
6 Chapter 205 or 206, Occupations Code, as applicable, and did not  
7 undergo a criminal history record information check based on the  
8 license holder's fingerprints on the initial application for the  
9 license. A board may suspend the license of a license holder who  
10 does not provide the criminal history record information as  
11 required by the board and this section.

12 SECTION 30. Not later than January 1, 2020, the Texas  
13 Medical Board shall approve the rules required by Section 601.1021,  
14 Occupations Code, as added by this Act.

15 SECTION 31. This Act takes effect September 1, 2019.

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 15, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1504** by Paddie (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1504, As Passed 2nd House: a positive impact of \$15,000 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$7,000
2021	\$8,000
2022	\$8,000
2023	\$8,000
2024	\$8,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	\$7,000	\$33,000
2021	\$8,000	\$33,000
2022	\$8,000	\$2,000
2023	\$8,000	\$2,000
2024	\$8,000	\$2,000

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Medical Board (TMB); authorizing a fee.

The bill would continue the agency for twelve years until September 1, 2031.

The bill would require initial and renewal acupuncturist and surgical assistant applicants for licensure to submit fingerprints and information to TMB or the Department of Public Safety (DPS) for the purpose of a criminal history record check from DPS and the Federal Bureau of Investigation.

The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2021.

The bill would create a new certificate type for Radiology Assistants and authorize the advisory board for Medical Radiologic Technology to issue the certificate and register Radiology Assistants. The bill would require TMB to approve rules to establish this certificate by January 1, 2020.

The bill would take effect on September 1, 2019.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), creating a new radiology assistant certificate would increase revenue TMB collects from fees, and the CPA estimates an initial increase of about 50 applicants for a new radiologist assistant certificate in fiscal year 2020 resulting in an increase of approximately \$7,000 in General Revenue. The CPA estimates an increase of \$8,000 in each subsequent fiscal year for 60 new applicants and renewals.

The requirement for new surgical assistant applicants to submit fingerprints and have a criminal background check through DPS would increase the workload for DPS by about 60 checks each year. Current acupuncture and surgical assistant licensees would be required to undergo this check by September 1, 2021. The current licensee population is approximately 1,615 licensees for both license types.

Applicants would pay DPS directly for the cost of fingerprinting and background checks. The cost to DPS would be recovered at \$38.25 per applicant.

The CPA assumes that implementing fingerprinting and background checks for new surgical assistants and renewing acupuncturists and surgical assistants would result in an increase to Appropriated Receipts of \$33,000 in fiscal years 2020 and 2021 for new applicants and current licensees renewing on a biennial basis. The CPA assumes an increase to Appropriated Receipts of \$2,000 in each subsequent fiscal year for an estimated 60 new surgical assistant applicants each year.

TMB and the CPA anticipate any costs relating to implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 503 Texas Medical Board, 116  
Sunset Advisory Commission

**LBB Staff:** WP, SD, ESt, AKi, SGr

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 7, 2019**

**TO:** Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1504** by Paddie (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1504, Committee Report 2nd House, Substituted: a positive impact of \$15,000 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$7,000
2021	\$8,000
2022	\$8,000
2023	\$8,000
2024	\$8,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	\$7,000	\$33,000
2021	\$8,000	\$33,000
2022	\$8,000	\$2,000
2023	\$8,000	\$2,000
2024	\$8,000	\$2,000

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Medical Board (TMB); authorizing a fee.

The bill would continue the agency for twelve years until September 1, 2031.

The bill would require initial and renewal acupuncturist and surgical assistant applicants for licensure to submit fingerprints and information to TMB or the Department of Public Safety (DPS) for the purpose of a criminal history record check from DPS and the Federal Bureau of Investigation.

The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2021.

The bill would create a new certificate type for Radiology Assistants and authorize the advisory board for Medical Radiologic Technology to issue the certificate and register Radiology Assistants. The bill would require TMB to approve rules to establish this certificate by January 1, 2020.

The bill would take effect on September 1, 2019.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), creating a new radiology assistant certificate would increase revenue TMB collects from fees, and the CPA estimates an initial increase of about 50 applicants for a new radiologist assistant certificate in fiscal year 2020 resulting in an increase of approximately \$7,000 in General Revenue. The CPA estimates an increase of \$8,000 in each subsequent fiscal year for 60 new applicants and renewals.

The requirement for new surgical assistant applicants to submit fingerprints and have a criminal background check through DPS would increase the workload for DPS by about 60 checks each year. Current acupuncture and surgical assistant licensees would be required to undergo this check by September 1, 2021. The current licensee population is approximately 1,615 licensees for both license types.

Applicants would pay DPS directly for the cost of fingerprinting and background checks. The cost to DPS would be recovered at \$38.25 per applicant.

The CPA assumes that implementing fingerprinting and background checks for new surgical assistants and renewing acupuncturists and surgical assistants would result in an increase to Appropriated Receipts of \$33,000 in fiscal years 2020 and 2021 for new applicants and current licensees renewing on a biennial basis. The CPA assumes an increase to Appropriated Receipts of \$2,000 in each subsequent fiscal year for an estimated 60 new surgical assistant applicants each year.

TMB and the CPA anticipate any costs relating to implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 503 Texas Medical Board, 116  
Sunset Advisory Commission

**LBB Staff:** WP, ESt, AKi, SGr

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 29, 2019**

**TO:** Honorable Lois W. Kolhorst, Chair, Senate Committee on Health & Human Services

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB1504** by Paddie (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1504, As Engrossed: a positive impact of \$15,000 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$7,000
2021	\$8,000
2022	\$8,000
2023	\$8,000
2024	\$8,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	\$7,000	\$33,000
2021	\$8,000	\$33,000
2022	\$8,000	\$2,000
2023	\$8,000	\$2,000
2024	\$8,000	\$2,000

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Medical Board (TMB); authorizing a fee.

The bill would continue the agency for twelve years until September 1, 2031.

The bill would require initial and renewal acupuncturist and surgical assistant applicants for licensure to submit fingerprints and information to TMB or the Department of Public Safety (DPS) for the purpose of a criminal history record check from DPS and the Federal Bureau of Investigation.

The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2021.

The bill would create a new certificate type for Radiology Assistants and authorize the advisory board for Medical Radiologic Technology to issue the certificate and register Radiology Assistants. The bill would require TMB to approve rules to establish this certificate by January 1, 2020.

The bill would take effect on September 1, 2019.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), creating a new radiology assistant certificate would increase revenue TMB collects from fees, and the CPA estimates an initial increase of about 50 applicants for a new radiologist assistant certificate in fiscal year 2020 resulting in an increase of approximately \$7,000 in General Revenue. The CPA estimates an increase of \$8,000 in each subsequent fiscal year for 60 new applicants and renewals.

The requirement for new surgical assistant applicants to submit fingerprints and have a criminal background check through DPS would increase the workload for DPS by about 60 checks each year. Current acupuncture and surgical assistant licensees would be required to undergo this check by September 1, 2021. The current licensee population is approximately 1,615 licensees for both license types.

Applicants would pay DPS directly for the cost of fingerprinting and background checks. The cost to DPS would be recovered at \$38.25 per applicant.

The CPA assumes that implementing fingerprinting and background checks for new surgical assistants and renewing acupuncturists and surgical assistants would result in an increase to Appropriated Receipts of \$33,000 in fiscal years 2020 and 2021 for new applicants and current licensees renewing on a biennial basis. The CPA assumes an increase to Appropriated Receipts of \$2,000 in each subsequent fiscal year for an estimated 60 new surgical assistant applicants each year.

TMB and the CPA anticipate any costs relating to implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 503 Texas Medical Board, 116  
Sunset Advisory Commission

**LBB Staff:** WP, EST, AKi, SGr

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 8, 2019**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Public Health

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE:** **HB1504** by Paddie (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1504, Committee Report 1st House, Substituted: a positive impact of \$15,000 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$7,000
2021	\$8,000
2022	\$8,000
2023	\$8,000
2024	\$8,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	\$7,000	\$33,000
2021	\$8,000	\$33,000
2022	\$8,000	\$2,000
2023	\$8,000	\$2,000
2024	\$8,000	\$2,000

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Medical Board (TMB); authorizing a fee.

The bill would continue the agency for twelve years until September 1, 2031.

The bill would require initial and renewal acupuncturist and surgical assistant applicants for licensure to submit fingerprints and information to TMB or the Department of Public Safety (DPS) for the purpose of a criminal history record check from DPS and the Federal Bureau of Investigation.

The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2021.

The bill would create a new certificate type for Radiology Assistants and authorize the advisory board for Medical Radiologic Technology to issue the certificate and register Radiology Assistants. The bill would require TMB to approve rules to establish this certificate by January 1, 2020.

The bill would take effect on September 1, 2019.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), creating a new radiology assistant certificate would increase revenue TMB collects from fees, and the CPA estimates an initial increase of about 50 applicants for a new radiologist assistant certificate in fiscal year 2020 resulting in an increase of approximately \$7,000 in General Revenue. The CPA estimates an increase of \$8,000 in each subsequent fiscal year for 60 new applicants and renewals.

The requirement for new surgical assistant applicants to submit fingerprints and have a criminal background check through DPS would increase the workload for DPS by about 60 checks each year. Current acupuncture and surgical assistant licensees would be required to undergo this check by September 1, 2021. The current licensee population is approximately 1,615 licensees for both license types.

Applicants would pay DPS directly for the cost of fingerprinting and background checks. The cost to DPS would be recovered at \$38.25 per applicant.

The CPA assumes that implementing fingerprinting and background checks for new surgical assistants and renewing acupuncturists and surgical assistants would result in an increase to Appropriated Receipts of \$33,000 in fiscal years 2020 and 2021 for new applicants and current licensees renewing on a biennial basis. The CPA assumes an increase to Appropriated Receipts of \$2,000 in each subsequent fiscal year for an estimated 60 new surgical assistant applicants each year.

TMB and the CPA anticipate any costs relating to implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 503 Texas Medical Board, 116  
Sunset Advisory Commission

**LBB Staff:** WP, EST, AKi, SGr

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 12, 2019**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Public Health

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1504** by Paddie (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1504, As Introduced: a positive impact of \$15,000 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$7,000
2021	\$8,000
2022	\$8,000
2023	\$8,000
2024	\$8,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2020	\$7,000	\$33,000
2021	\$8,000	\$33,000
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The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licenses who have not undergone a criminal history check to do so by September 1, 2021.

The bill would create a new certificate type for Radiology Assistants and authorizes the advisory board for Medical Radiologic Technology to issue the certificate and register Radiology Assistants. The bill would require TMB to approve rules to establish this certificate by January 1, 2020.

The bill would take effect on September 1, 2019.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), creating a new radiology assistant certificate would increase revenue TMB collects from fees, and the CPA estimates an initial increase of about 50 applicants for a new radiologist assistant certificate in fiscal year 2020 resulting in an increase of approximately \$7,000 in General Revenue. The CPA estimates an increase of \$8,000 in each subsequent fiscal year for 60 new applicants and renewals.

The requirement for new surgical assistant applicants to submit fingerprints and have a criminal background check through DPS would increase the workload for DPS by about 60 checks each year. Current acupuncture and surgical assistant licensees would be required to undergo this check by September 1, 2021. The current licensee population is approximately 1,615 licensees for both license types.

Applicants would pay DPS directly for the cost of fingerprinting and background checks. The cost to DPS would be recovered at \$38.25 per applicant.

The CPA assumes that implementing fingerprinting and background checks for new surgical assistants and renewing acupuncturists and surgical assistants would result in an increase to Appropriated Receipts of \$33,000 in fiscal years 2020 and 2021 for new applicants and current licensees renewing on a biennial basis. The CPA assumes an increase to Appropriated Receipts of \$2,000 in each subsequent fiscal year for an estimated 60 new surgical assistant applicants each year.

TMB and the CPA anticipate any costs relating to implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts,  
503 Texas Medical Board

**LBB Staff:** WP, AKi, SGr, ESt